

1                   **HOUSE JOINT RESOLUTION NO. 39**

2                   (By Delegates Anderson, Ellem, Storch,  
3                   Gearheart, Sigler, Ellington, Nelson,  
4                   Savilla, and Howell)

5                   [Introduced February 17, 2011; referred to the  
6                   Committee on Constitutional Revision then Finance.]

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9  
10 Proposing an amendment to the Constitution of the State of West  
11 Virginia, amending section one-b, article ten thereof,  
12 relating to homestead exemption increase; numbering and  
13 designating such proposed amendment; and providing a  
14 summarized statement of the purpose of such proposed  
15 amendment.

16       *Resolved by the Legislature of West Virginia, two thirds of*  
17 *the members elected to each house agreeing thereto:*

18       That the question of ratification or rejection of an amendment  
19 to the Constitution of the State of West Virginia be submitted to  
20 the voters of the state at the next general election to be held in  
21 the year 2012, which proposed amendment is that section one-b,  
22 article ten thereof, be amended to read as follows:

23 **ARTICLE X. TAXATION AND FINANCE.**

24 **§1b. Property tax limitation and homestead exemption amendment of**  
25 **1982.**

1       Ad valorem property taxation shall be in accordance with this  
2 section and other applicable provisions of this article not  
3 inconsistent with this section.

4       *Subsection A -- Value; Rate of Assessment; Exceptions*

5       Notwithstanding any other provisions of this Constitution and  
6 except as otherwise provided in this section, all property subject  
7 to ad valorem taxation shall be assessed at sixty percent of its  
8 value, as directed to be ascertained in this section, except that  
9 the Legislature may from time to time, by general law agreed to by  
10 two thirds of the members elected to each house, establish a higher  
11 percentage for the purposes of this paragraph, which percentage  
12 shall be uniform as to all classes of property defined in section  
13 one of this article, but not more than one hundred percent of such  
14 value.

15       Notwithstanding the foregoing, for July 1, 1982, and the first  
16 day of July of each year thereafter until the values may be fixed  
17 as a result of the first statewide reappraisal hereinafter  
18 required, assessments shall be made under the provisions of current  
19 statutory law, which is hereby validated for such purpose until and  
20 unless amended by the Legislature. Assessment and taxation in  
21 accord with this section shall be deemed to be equal and uniform  
22 for all purposes.

23       *Subsection B -- Determination of Value*

24       The Legislature shall provide by general law for periodic  
25 statewide reappraisal of all property, which reappraisal shall be

1 related for all property to a specified base year which, as to each  
2 such reappraisal, shall be uniform for each appraisal for all  
3 classes of property and all counties. In such law, the Legislature  
4 shall provide for consideration of: (1) Trends in market values  
5 over a fixed period of years prior to the base year; (2) the  
6 location of the property; and (3) such other factors and methods as  
7 it may determine: *Provided*, That with respect to reappraisal of  
8 all property upon the base year of 1980, such reappraisals are  
9 deemed to be valid and in compliance with this section: *Provided*,  
10 *however*, That with respect to farm property, as defined from time  
11 to time by the Legislature by general law, the determination of  
12 value shall be according to its fair and reasonable value for  
13 farming purposes, as may be defined by general law.

14       The results of each statewide appraisal shall upon completion  
15 be certified and published and errors therein may be corrected, all  
16 as provided by general law. The first such statewide appraisal  
17 shall be completed, certified and published on or before March 31,  
18 1985, for use when directed by the Legislature.

19       The Legislature shall further prescribe by general law the  
20 manner in which each statewide reappraisal shall be employed to  
21 establish the value of the various separately assessed parcels or  
22 interests in parcels of real property and various items of personal  
23 property subject to ad valorem property taxation, the methods by  
24 which increases and reductions in value subsequent to the base year  
25 of each statewide reappraisal shall be ascertained, and require the

1 enforcement thereof.

2       *Subsection C -- General Homestead Exemption*

3       Notwithstanding any other provisions of this Constitution to  
4 the contrary, the first ~~twenty~~ \$35,000 of assessed valuation of any  
5 real property, or of personal property in the form of a mobile  
6 home, used exclusively for residential purposes and occupied by the  
7 owner or one of the owners thereof as his or her residence who is  
8 a citizen of this state and who is sixty-five years of age or older  
9 or is permanently and totally disabled as that term may be defined  
10 by the Legislature, shall be exempt from ad valorem property  
11 taxation, subject to such requirements, limitations and conditions  
12 as shall be prescribed by general law: Provided, That if the owner  
13 or owners are citizens of this state whose federal adjusted gross  
14 income is equal to or less than three hundred percent of the  
15 federal poverty level as that term is defined by the federal  
16 government then such exemption shall be the greater of the first  
17 \$35,000 of assessed valuation of any real property or fifty percent  
18 of the average home sale price in the county where the residence is  
19 located for the five years immediately preceding the assessment:  
20 Provided, however, That in no case may this exemption exceed the  
21 average home sale price in the entire state for the five years  
22 immediately preceding the assessment.

23       Notwithstanding any other provision of this Constitution to  
24 the contrary, the Legislature shall have the authority to provide  
25 by general law for an exemption from ad valorem property taxation

1 in an amount not to exceed the first \$20,000 of value of any real  
2 property, or of personal property in the form of a mobile home,  
3 used exclusively for residential purposes and occupied by the owner  
4 or one of the owners thereof as his or her residence who is a  
5 citizen of this state, and who is under sixty-five years of age and  
6 not totally and permanently disabled: *Provided*, That upon  
7 enactment of such general law, this exemption shall only apply to  
8 such property in any county in which the property was appraised at  
9 its value as of January 1, 1980, or thereafter, as determined by  
10 the Legislature, and this exemption shall be phased in over such  
11 period of time not to exceed five years from the date such property  
12 was so appraised, or such longer time as the Legislature may  
13 determine by general law: *Provided, however*, That in no event  
14 shall any one person and his or her spouse, or one homestead be  
15 entitled to more than one exemption under these provisions:  
16 *Provided further*, That these provisions are subject to such  
17 requirements, limitations and conditions as shall be prescribed by  
18 general law.

19       The Legislature shall have the authority to provide by general  
20 law for property tax relief to citizens of this state who are  
21 tenants of residential or farm property.

22       *Subsection D -- Additional Limitations on Value*

23       With respect to the first statewide reappraisal, pursuant to  
24 this section, the resulting increase in value in each and every  
25 parcel of land or interest therein and various items of personal

1 property subject to ad valorem property taxation over and above the  
2 previously assessed value shall be allocated over a period of ten  
3 years in equal amounts annually.

4 The Legislature may by general law also provide for the  
5 phasing in of any subsequent statewide reappraisal of property.

6 *Subsection E -- Levies for Free Schools*

7 In equalizing the support of free schools provided by state  
8 and local taxes, the Legislature may require that the local school  
9 districts levy all or any portion of the maximum levies allowed  
10 under section one of this article which has been allocated to such  
11 local school districts.

12 Within the limits of the maximum levies permitted for excess  
13 levies for schools or better schools in sections one and ten of  
14 this article, the Legislature may, in lieu of the exercise of such  
15 powers by the local school districts as heretofore provided, submit  
16 to the voters, by general law, a statewide excess levy, and if it  
17 be approved by the required number of voters, impose such levy,  
18 subject however to all the limitations and requirements for the  
19 approval of such levies as in the case of a district levy. The law  
20 submitting the question to the voters shall provide, upon approval  
21 of the levy by the voters, for the assumption of the obligation of  
22 any local excess levies for schools then in force theretofore  
23 authorized by the voters of a local taxing unit to the extent of  
24 such excess levies imposed by the state and so as to avoid double  
25 taxation of those local districts. The Legislature may also by

1 general law reserve to the school districts such portions of the  
2 power to lay authorized excess levies as it may deem appropriate to  
3 enable local school districts to provide educational services which  
4 are not required to be furnished or supported by the state. If a  
5 statewide excess levy for the support of free schools is approved  
6 by the required majority, the revenue from such a statewide excess  
7 levy shall be deposited in the State Treasury and be allocated  
8 first for the local obligations assumed and thereafter for such  
9 part of the state effort to support free schools, by appropriation  
10 or as the law submitting the levy to the voters shall require, as  
11 the case may be.

12       The defeat of any such proposed statewide excess levy for  
13 school purposes shall not in any way abrogate or impair any local  
14 existing excess levy for such purpose nor prevent the adoption of  
15 any future local excess levy for such purpose.

16       *Subsection F -- Implementation*

17       In the event of any inconsistency between any of the  
18 provisions of this section and other provisions of this  
19 Constitution, the provisions of this section shall prevail. The  
20 Legislature shall have plenary power to provide by general law for  
21 the equitable application of this article and, as to taxes to be  
22 assessed prior to the first statewide reappraisal, to make such  
23 laws retroactive to July 1, 1982, or thereafter.

24       *Resolved further,* That in accordance with the provisions of  
25 article eleven, chapter three of the Code of West Virginia, 1931,

1 as amended, such proposed amendment is hereby numbered "Amendment  
2 No. 1" and designated as the "Homestead Exemption Increase  
3 Amendment" and the purpose of the proposed amendment is summarized  
4 as follows: "The purpose of this amendment is to increase the  
5 homestead exemption from \$20,000 to \$35,000, and for those earning  
6 less than three times the poverty level, to provide an exemption  
7 which shall be the greater of the first \$35,000 of assessed  
8 valuation of any real property or fifty percent of the average home  
9 sale price in the county where the residence is located."

NOTE: The purpose of this resolution is to increase the homestead exemption from \$20,000 to \$35,000. The bill also provides for seniors who earn less than three times the poverty level, that their exemption shall be the greater of the first \$35,000 of assessed valuation of any real property or fifty percent of the average home sale price in the county where the residence is located.

Strike-throughs indicate language that would be stricken from the present Constitution, and underscoring indicates new language that would be added.